

RHS, RBS, RUS, FSA, USDA

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will be treated as an authorized loan(s). Each payment reversed will be re-applied as of the original date of credit. After payments are reversed and re-applied, the servicing official will receive Forms FmHA or its successor agency under Public Law 103-354 451-26 from the Finance Office reflecting the account status.

(1) Account adjustments will be handled as follows:

(i) When a change in interest rate is necessary, retroactive to the date of loan closing on all or a portion of a loan, Form FmHA or its successor agency under Public Law 103-354 1951-13 will be completed according to the FMI and submitted to the Finance Office. Payments will be reversed and re-applied accordingly.

(ii) For accounts to be rescheduled or reamortized, Forms FmHA or its successor agency under Public Law 103-354 1951-4, or 1965-11, as applicable, will be prepared and submitted in accordance with the respective FMI.

(iii) When an inactive borrower agrees to repay unauthorized assistance and executes documents to evidence such an obligation, the County Supervisor will notify the Finance Office by memorandum, attaching a copy of the promissory note. The Finance Office will establish or reinstate the account according to the terms of the promissory note.

(iv) If a loan is paid in full, the remittance will be handled in the same manner as any other final payment.

(2) A delinquency created through reversal and reapplication of payments to effect corrections outlined in paragraph (b)(1) of this section will be serviced according to the applicable servicing regulations for the type loan involved.

[50 FR 45777, Nov. 1, 1985, as amended at 55 FR 35295, Aug. 29, 1990]

§ 1951.569 Exception authority.

The Administrator may in individual cases make an exception to any requirement or provision of this subpart which is not inconsistent with the authorizing statute or other applicable law if the Administrator determines that application of the requirement or provision would adversely effect the Government's interest. The Adminis-

trator will exercise this authority only at the request of the State Director and on the recommendation of the appropriate Program Assistant Administrator. Requests for exceptions must be made in writing by the State Director and supported with documentation to explain the adverse effect on the Government's interest, propose alternative courses of action, and show how the adverse effect will be eliminated or minimized if the exception is granted.

§§ 1951.570-1951.599 [Reserved]

§ 1951.600 OMB control number.

The collection of information requirements in this regulation have been approved by the Office of Management and Budget and assigned OMB control number 0575-0102.

Subparts M-N [Reserved]

Subpart O—Servicing Cases Where Unauthorized Loan(s) or Other Financial Assistance Was Received—Community and Insured Business Programs

SOURCE: 50 FR 13000, Apr. 2, 1985, unless otherwise noted.

§ 1951.701 Purpose.

This subpart prescribes the policies and procedures for servicing Community and Business Program loans and/or grants made by Farmers Home Administration or its successor agency under Public Law 103-354 (FmHA or its successor agency under Public Law 103-354) when it is determined that the borrower or grantee was not eligible for all or part of the financial assistance received in the form of a loan, grant, or subsidy granted, or any other direct financial assistance. It does not apply to guaranteed loans. Loans sold without insurance by the FmHA or its successor agency under Public Law 103-354 to the private sector will be serviced in the private sector and will not be serviced under this subpart. The provisions of this subpart are not applicable to

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such loans. Future changes to this subpart will not be made applicable to such loans.

[52 FR 38908, Oct. 20, 1987]

§ 1951.702 Definitions.

As used in this subpart, the following definitions apply:

(a) *Active borrower.* A borrower who has an outstanding account in the records of the Finance Office, including collection-only or an unsatisfied account balance where a voluntary conveyance was accepted without release from liability of foreclosure did not satisfy the indebtedness.

(b) *Assistance.* Finance assistance in the form of a loan, grant, or subsidy received.

(c) *Debt instrument.* Used as a collective term to include promissory note, assumption agreement, grant agreement agreement/resolution, or bond.

(d) *False information.* Information, known to be incorrect, provided with the intent to obtain benefits which would not have been obtainable based on correct information.

(e) *Inaccurate information.* Incorrect information provided inadvertently without intent to obtain benefits fraudulently.

(f) *Inactive borrower.* A former borrower whose loan(s) has (have) been paid in full or assumed by another party(ies) and who does not have an outstanding account in the records of the Finance Office.

(g) *Recipient.* "Recipient" refers to an individual or entity that received a loan, or portion of a loan, an interest subsidy, a grant, or a portion of a grant which was unauthorized.

(h) *Servicing official.* For Community Programs, the servicing official is the District Director, an Assistant District Director, or a District Loan Specialist so designated. For Business Programs, the servicing official is the State Director or Designee.

(i) *Unauthorized assistance.* Any loan, interest subsidy, grant, or portion thereof received by a recipient for which there was no regulatory authorization for which the recipient was not eligible. Interest subsidy includes subsidy benefits received because a loan was closed at a lower interest rate than that to which the recipient was enti-

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tled, whether the incorrect interest rate was selected erroneously by the approval official or the documents were prepared in error.

§ 1951.703 Policy.

When unauthorized assistance has been received, an effort must be made to collect from the recipient the sum which is determined to be unauthorized, regardless of amount, unless any applicable Statute of Limitation has expired.

§§ 1951.704–1951.705 [Reserved]

§ 1951.706 Initial determination that unauthorized assistance was received.

Unauthorized assistance may be identified through audits conducted by the Office of the Inspector General, USDA, (OIG); through reviews made by FmHA or its successor agency under Public Law 103-354 personnel; or through other means such as information provided by a private citizen which documents that unauthorized assistance has been received by a recipient of FmHA or its successor agency under Public Law 103-354 assistance. If the servicing official has reason to believe unauthorized assistance was received, but is unable to determine whether or not the assistance was in fact unauthorized, the case file including the advice of the Regional Office of the General Counsel (OGC) will be referred to the National Office for review and comment. In every case where it is known or believed by FmHA or its successor agency under Public Law 103-354 that the assistance was based on false information, investigation by the OIG will be requested as provided for in FmHA or its successor agency under Public Law 103-354 Instruction 2012-B (available in any FmHA or its successor agency under Public Law 103-354 office). If OIG conducts an investigation, the actions outlined in §1951.707 will be deferred until the OIG investigation is completed and the report is received. The reason(s) for the unauthorized assistance being received by the recipient will be well documented in the case file, and will specifically state whether it was due to: